

**Meeting of the Central Valley Flood Protection Board  
September 19, 2008**

**Draft Staff Report**

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Item

In response to recent directions from the Sacramento District, U.S. Army Corps of Engineers (Attachment A), consider approval of a letter to the Corps (Attachment B) requesting post authorization change (PAC) approval as a result of the passage of the Water Resources Development Act of 2007 (WRDA 07) to alter the federal flood control project levee between Bear Creek and Mosher Slough (about 4,000 linear feet) within the City of Stockton. This letter supersedes the Board's October 19, 2007 request to alter a portion of a federal levee under 33 U.S.C. Section 408.

Applicant

Reclamation District 2126 (Atlas Tract), Stockton, California

Location

The Atlas Tract Levee Alteration Project is located in San Joaquin County just west of Interstate 5 between Bear Creek and Mosher Slough (Figure 1).

Description

The applicant is proposing to alter the federal flood control project levee between Bear Creek and Mosher Slough by relocating the general alignment of the existing levee approximately 40 feet to the west to allow construction of a county road per the City of Stockton's adopted General Plan (Figure 2).

At its October 19, 2007 meeting, the then-Reclamation Board considered this project. After consideration the Board voted to send a letter to the Corps requesting that the Corps approve the project under 33 U.S.C. Section 408. That letter was sent and the Corps began to process the application under Section 408. However the passage of the Water Resources Development Act of 2007 changed the process under which this project must be considered. As a result staff is bringing this to the Board to request approval of a new letter that cites the correct process, as requested by the Corps in Attachment A. Approval of this letter is all that is required for the Corps Sacramento District to send this project to the Corps South-Pacific Division for final approval as a PAC.

### Staff Recommendation

Staff recommends that the Board approve sending the post authorization change request letter (Attachment B) to the U.S. Army Corps of Engineers, Sacramento District.

### Attachments

- A. August 19, 2008 letter from U.S. Army Corps of Engineers
- B. Post Authorization Change Request letter to U.S. Army Corps of Engineers

### Figures

- 1. Location Map
- 2. Typical Cross Section and Realignment Plan View



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
~~U.S. ARMY ENGINEER DISTRICT SACRAMENTO~~  
CORPS OF ENGINEERS  
1325 J STREET  
SACRAMENTO, CALIFORNIA 95814-2922

Planning Division

**AUG 19 2008**

Mr. Benjamin F. Carter, President  
Central Valley Flood Protection Board  
3310 El Camino Ave., Room LL40  
Sacramento, CA 95821

Dear Mr. Carter:

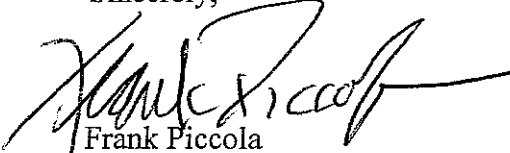
You provided a letter dated October 19, 2007, requesting approval by the U.S. Army Corps of Engineers (Corps) on behalf of the Reclamation District 2126, to alter portion of a Federal levee under 33 U.S.C. Section 408. This levee is adjacent to Atlas Tract, and is part of the Bear Creek Project. You must resubmit your request letter as a result of the passage of the Water Resources Development Act of 2007 (WRDA 07). Section 5040 of the WRDA 07 provides authorization for a non-Federal interest to reconstruct and relocate, at non-Federal expense, a specific portion of the Calaveras River and Littlejohn Creek and tributaries (encl 1). Approval of the relocation through the Section 408 Permission process is no longer required. The implementation guidance issued by Corps headquarters shall be used to process the proposed modification (encl 2).

Atlas Tract Levee Alteration Project will be evaluated as a post authorization change (PAC) instead of the Section 408 Permission process. This will not change the previous requirements of NEPA compliance or approval of Section 10 and Section 404 permits. The Corps will complete the evaluation of the reconstruction and relocation submittals of the Atlas Tract Levee Relocation Project as a PAC to generally meet the requirements of Engineering Regulation 1105-2-100, Appendix G, and paragraph G-16.

Before the South Pacific Division Commander approves the plan for reconstruction and relocation, the Central Valley Flood Protection Board (CVFPB) must agree to accept the alterations as part of the Federal project and agree to perform operation and maintenance of the work. The CVFPB must also agree to hold and save the United States free from damage due to the construction work. The CVFPB shall submit to the Corps, within 90 days of completion of the project alteration, a draft revised Bear Creek Project Operations and Maintenance Manual for Corps review and approval and as-built Plans and Specifications for the alterations. Please submit your assurances to Colonel Thomas C. Chapman District Engineer, Sacramento District, 1325 J Street Sacramento, California 95814.

Please contact Ms. Alicia Kirchner, Chief, Watershed Assessment & Ecological Resource Section at (916) 557-6767, or Ms. Meegan Nagy, Chief, Flood Protection and Navigation Section at (916) 557-7257, if you have any questions regarding this request for assurance for the Atlas Tract Post Authorization Change.

Sincerely,



Frank Piccola  
Chief, Planning Division

Enclosures

ENCLOSURE 1

SEC. 5040. CALAVERAS RIVER AND LITTLEJOHN CREEK AND TRIBUTARIES,  
STOCKTON, CALIFORNIA.

(a) IN GENERAL.—Unless the Secretary determines, by not later than 30 days after the date of enactment of this Act, that the relocation of the portion of the project described in subsection (b)(2) would be injurious to the public interest, a non-Federal interest may reconstruct and relocate that portion of the project approximately 300 feet in a westerly direction.

(b) PROJECT DESCRIPTION.—

(1) IN GENERAL.—The project referred to in subsection (a) is the project for flood control, Calaveras River and Littlejohn Creek and tributaries, California, authorized by section 10 of the Flood Control Act of December 22, 1944 (58 Stat. 902).

(2) SPECIFIC DESCRIPTION.—The portion of the project to be reconstructed and relocated is that portion consisting of approximately 5.34 acres of dry land levee beginning at a point N. 2203542.3167, E. 6310930.1385, thence running west about 59.99 feet to a point N. 2203544.6562, E. 6310870.1468, thence running south about 3,874.99 feet to a point N. 2199669.8760, E. 6310861.7956, thence running east about 60.00 feet to a point N. 2199668.8026, E. 6310921.7900, thence running north about 3,873.73 feet to the point of origin.

(c) COST SHARING.—The non-Federal share of the cost of reconstructing and relocating the portion of the project described in subsection (b)(2) shall be 100 percent.



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS  
441 G STREET NW  
WASHINGTON, D.C. 20314-1000

MAY 14 2008

CECW-PB

MEMORANDUM FOR COMMANDER, South Pacific Division (CESPD-DE)

SUBJECT: Implementation Guidance for Section 5040 of the Water Resources Development Act of 2007 (WRDA 2007) – Calaveras River and LittleJohn Creek and Tributaries, Stockton, California

1. Section 5040 of WRDA 2007 provides authorization for a non-Federal interest to reconstruct and relocate, at full non-Federal expense, a specified portion of the Calaveras River and Littlejohn Creek and tributaries, California project approximately 300 feet in a westerly direction unless the Secretary determines, by not later than 30 days after the date of enactment of WRDA 2007, that the relocation would be injurious to the public interest. An explicit description of the portion of the project to be reconstructed and relocated is included in section 5040. A copy of Section 5040 is enclosed.
2. Because section 5040 is separate, specific authority to allow reconstruction and relocation of the specified portion of the project, previous action to seek approval of the alteration pursuant to 33 U.S.C. 408 is no longer necessary. However, NEPA compliance and approval for any other applicable permits, such as Section 10 or Section 404, are still required. The plan for reconstruction and relocation of the portion of the levee project that is submitted by the non-Federal interest should be evaluated as a post-authorization change, per Engineering Regulation 1105-2-100, Appendix G, and documentation should be prepared per ER 100, Appendix G, paragraph G-16, as applicable. Authority to approve the non-Federal interest's plan for reconstruction and relocation is delegated to the Division Commander.

FOR THE COMMANDER:

A handwritten signature in black ink, appearing to read "S. L. Stockton", is written over the printed name.

STEVEN L. STOCKTON, P.E.  
Director of Civil Works

Encls

**CENTRAL VALLEY FLOOD PROTECTION BOARD**

3310 El Camino Ave., Rm. LL40  
SACRAMENTO, CA 95821  
(916) 574-0609 FAX: (916) 574-0682  
PERMITS: (916) 574-0653 FAX: (916) 574-0682



September 19, 2008

Colonel Thomas C. Chapman, District Engineer  
U.S. Army Corps of Engineers  
Sacramento District  
1325 J Street  
Sacramento, California 95814

Dear Colonel Chapman:

The Central Valley Flood Protection Board (Board) is requesting post authorization change (PAC) evaluation and approval by the U.S. Army Corps of Engineers (Corps) as a result of passage of the Water Resources Development Act of 2007, on behalf of Reclamation District 2126, to alter a portion of the San Joaquin River Flood Control Project. This request supersedes our prior request under 33 U.S.C. Section 408 dated October 19, 2007 and is responsive to your letter dated August 19, 2008 directing that we resubmit our request.

As authorized in Section 5040 of the WRDA 2007, this alteration request involves reconstruction and relocation, at non-Federal expense, of a specific portion of the Calaveras River and Littlejohn Creek and tributaries (a dry land levee in the Bear Creek Flood Control Project) in the City of Stockton, San Joaquin County. The Board has determined the proposed alteration will not have a detrimental effect on the San Joaquin River Flood Control Project. Board permit application No. 18257 including project description, construction specifications, and levee alteration plans, along with RD 2126's submittal entitled "Summary Report to Support the Alteration to the Bear Creek Flood Control Project, January 8, 2008" are already in possession of Sacramento District staff.

If the Corps approves the PAC, the Board will proceed with its permitting process. If a permit is granted by the Board, the project has been completed, and the alteration has been formally incorporated within the federal project by the Corps, then the State of California, acting through the Board, will accept the alterations as part of the Federal project for operation and maintenance and will hold and save the United States free from damage due to the construction work.

The Board will also submit to the Corps, within 90 days of completion of the project alteration, a draft revised Bear Creek Project Operations and Maintenance Manual for Corps review and approval and as-built Plans and Specifications for the alterations.

Colonel Thomas C. Chapman  
September 19, 2008  
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If you have any questions or need further information, please contact me at (916) 574-0609, or your staff may contact Gary Hester, the Board's Chief Engineer, at (916) 574-0608.

Sincerely,

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Benjamin F. Carter, President  
Central Valley Flood Protection Board

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Maureen "Lady Bug" Doherty, Secretary  
Central Valley Flood Protection Board



Figure 1



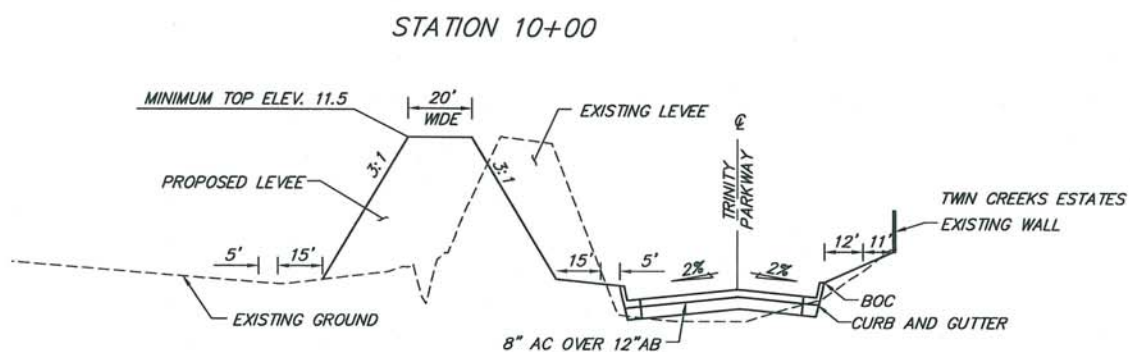
FIGURE 2

LSA





Figure 2



Typical Levee Cross Section

LEGEND

- Existing Levee
- Proposed Re-Aligned Levee
- Future Pavement Locations
- Future Pavement Atop Re-Aligned Levee
- Proposed Right-of-Way
- Offset From Existing Levee

